

**FILED**

**OCT 01 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON**  
**U.S. COURT OF APPEALS**

GUY TERRALL LORICK,

Petitioner - Appellant,

v.

MICHAEL KNOWLES,\*\* Deputy Warden,

Respondent - Appellee.

No. 00-56809

D.C. No. CV-99-01637-BTM

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Barry T. Moskowitz, District Judge, Presiding

Argued and Submitted September 10, 2003  
Pasadena, California

Before: KLEINFELD, WARDLAW, and W. FLETCHER, Circuit Judges.

Lorick knew the essential facts for his claim when they were developed during his 1993 sentencing. These facts comprised the “factual predicate”<sup>1</sup> for his ineffective assistance of counsel and conflict of interest claims because they “suggest[ed] both unreasonable performance and resulting prejudice.”<sup>2</sup> That he obtained more evidence in 1999 has no effect on the statute of limitations.

Assuming without deciding that his papers between March 1998 and April 1999 were properly filed, the district court was nevertheless correct that the one-year AEDPA statute of limitations bars the claim.<sup>3</sup> Eighty-one days elapsed from April 24, 1996, the AEDPA effective date, to July 14, 1996, when Lorick filed his first state habeas petition. Two hundred twenty-two days elapsed between July 25, 1997, and his filing on March 4, 1998. One hundred two days elapsed from April 14, 1999, when the California Court of Appeal denied Lorick’s state petition, to July 25, 1999, when he filed his federal petition.

AFFIRMED.

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<sup>1</sup> 28 U.S.C. § 2244(d)(1)(D).

<sup>2</sup> Hasan v. Galaza, 254 F.3d 1150, 1154 (9th Cir. 2001) (emphasis in original).

<sup>3</sup> 28 U.S.C. § 2244(d)(1).

